

Notice of Allowability

Application No.

09/508,238

Examiner

Jehanne S Sitton

Applicant(s)

BERGHOF ET AL.

Art Unit

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 10/15/2004.
2. ☒ The allowed claim(s) is/are 46-50,55,56 and 58-78.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Jehanne Sitton
JEHANNE SITTON
PRIMARY EXAMINER
12/21/04

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Julia Grimes on December 21, 2004.

The application has been amended as follows:

Claim 46. (Currently Amended) An isolated polynucleotide consisting of 30 contiguous nucleotides of SEQ ID NO: 1 or the complement thereof, wherein the polynucleotide optionally consists of a moiety that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 47. (Currently Amended) An isolated polynucleotide consisting of SEQ ID NO: 3 or the complement of SEQ ID NO: 3, wherein the polynucleotide optionally consists of a moiety that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 48. (Currently Amended) An isolated polynucleotide consisting of SEQ ID NO: 4 or the complement of SEQ ID NO: 4, wherein the polynucleotide optionally consists of a moiety

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that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 49. (Currently Amended) An isolated polynucleotide consisting of SEQ ID NO: 5 or the complement of SEQ ID NO: 5, wherein the polynucleotide optionally consists of a moiety that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 50. (Currently Amended) An isolated polynucleotide consisting of SEQ ID NO: 1 or the complement of SEQ ID NO: 1, wherein the polynucleotide optionally consists of a moiety that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 55. (Currently Amended) An isolated polynucleotide [comprising the polynucleotide] of any one of claims 46-50 [and optionally] which consists of a moiety that produces a signal or a binding site for a moiety that produces a signal when the polynucleotide hybridizes to *Pseudomonas* DNA.

Claim 65. (Currently Amended) A kit for detecting *Pseudomonas*, [comprising the] which comprises a polynucleotide of claim 55.

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Claim 75. (Currently Amended) The method of claim 68, wherein the nucleic acid [sequence] primer or probe of b) is [at least 15-] up to 250 [contiguous] nucleotides long.

2. The following is an examiner's statement of reasons for allowance: The claims are drawn to nucleic acid molecules which consist of SEQ ID NO: 1, 3, 4, or 5, or to a nucleic acid which consists of 30 contiguous nucleotides of SEQ ID NO: 1, complements of such, as well as kits comprising such. The claims are also drawn to methods of detecting *Pseudomonas* and to methods of making probes and primers for detecting *Pseudomonas*, said methods using or producing nucleic acid sequences of 10 or 15 contiguous nucleotides of SEQ ID NO: 1, such nucleic acids being up to 250 nucleotides long. The method claims are further limited to using SEQ ID NOS 2, 3, 4, or 5, as well as sequences within the 23S or 5S genes. The claims are allowable over the closest prior art of Heidrich, Rijpkema, Tyler, Kur, and Jensen, because the prior art does not teach or fairly suggest methods of detecting *Pseudomonas* or methods of making probes and primers for detecting *Pseudomonas*, said methods using or producing nucleic acid sequences of 10 or 15 contiguous nucleotides of SEQ ID NO: 1, such nucleic acids being up to 250 nucleotides long or methods using SEQ ID NOS 2, 3, 4, or 5, as well as sequences within the 23S or 5S genes. Further, the prior art does not teach or fairly suggest the claimed nucleic acid molecules or kits comprising such.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jehanne Sitton whose telephone number is (571) 272-0752. The examiner can normally be reached Monday-Thursday from 8:00 AM to 5:00 PM and on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (571) 272-0745. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.



Jehanne Sitton
Primary Examiner
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12/21/04